

Remarks

Information Disclosure Statement

Applicant again requests that the Examiner sends the initial PTO Form 1449 confirming that the Examiner has considered the references submitted with an Information Disclosure Statement on June 25, 2004. The PAIR System indicates that the Information Disclosure Statement has been received by the Patent and Trademark Office.

Claims

The change to claim 10 is made to clarify the claim and does not affect the patentability of this claim. The change to claim 22 is made to prevent claim 22 from being a duplicate of claim 19 and is not submitted for reasons related to patentability.

The change to claim 24 answers the requirement of “interfitting passageway defining means” as set forth in such claim.

Restriction Requirement

Applicant was surprised to receive a restriction requirement in this case. All of the previously submitted claims run through 24 had been examined by the Examiner. In addition, after presenting claim 3 in independent form, claims 3-23 had previously been indicated by the Examiner to be allowable. Since all of the claims had previously been examined, and only a few claims remained apart from the allowed or allowable claims, how can the Examiner be burdened by all of the claims being kept together.

The Examiner has taken the position that the application contains claims directed to the following patentably distinct species of the claimed invention:

- A. A fish attracted dispensing apparatus comprising a fishing line a receiving passageway, and having end portions sized to receive one another---the end portions being likened in the claims to lips, tubular projections, components, etc.;
- B. A fish attractant dispensing apparatus comprising a fishing line a receiving passageway, and having open positions including a plurality of open positions; and
- C. A fish attractant dispensing apparatus comprising a fishing line a receiving passageway, and having visual indicia.

None of Applicant's claims use the precise phrase "a fishing line a receiving passageway". In addition, the claims do not use language such as "end portions being likened." Thus, it is hard to construe what the Examiner means by the group A claims.

However, Applicant believes that all of Applicant's claims fall within Group A as this group is understood. Therefore, Applicant provisionally elects the Group A claims.

More specifically, independent claim 1 requires "passageway defining members interfitting with one another". Independent claim 3 requires "passageway defining members interfitting with one another". Claims 4-9 depend directly or indirectly upon claim 3 and thus include this interfitting requirement. Independent claim 10 requires "passageway defining members interfitting with one another". Claims 11-18 depend directly or indirectly upon claim 10 and thus have this requirement. Independent claim 19 requires "passageway defining members interfitting with one another". Claims 20-23 depend directly or indirectly upon claim 19 and thus have this requirement. Independent claim 24 is a mean plus function claim which requires: "interfitting passageway defining means for defining a passageway from the exterior of the body, through the body and to the exterior of the body". Independent claim 25 recites:

“Comprising respective first and second tubular projections having respective first and second end portions that interfit with one another when the first and second housing sections are interconnected to define a passageway”. Independent claim 26 requires: “The first and second components that together define a passageway” and “the first and second components interfitting when the first and second housing sections are interconnected.” Claims 27-28 depend directly or indirectly upon claim 26 and thus also has this requirement. New claims 29, 30, 31 and 32 require a passageway of plastic that extends through the body when the first and second housing sections are interconnected.

Thus, as the Examiner’s Group A claims are understood, all of Applicant’s claims fall in Group A as they require passageway defining members that form a passageway through the apparatus when the first and second housing sections are interconnected..

With respect to the Examiner’s second group B claims, again, none of the claims use the precise language “a fishing line a receiving passageway”. Also, none of the claims uses specific language “having open positions including a plurality of open positions”. However, claim 3 uses the language “wherein there are plural of such second open positions” and thus this requirement is found in claims 4-9 which depend directly or indirectly upon claim 3. In addition, claim 13 requires fish attractant dispersing openings but there is no specific reference in this claim to the precise language “a plurality of open positions”. Claims 14-18 depend directly or indirectly upon claim 13. Claim 19 also refers to “fish attractant dispersing openings” but again has no specific reference to the precise language “a plurality of open positions”. Claim 20 depends from claim 19. Claim 21 depends from claim 19 and mentions “varied to vary the extent to which the fish attractant dispersing openings are open”. Claims 22 and 23 depend directly or

indirectly upon claim 19. Claim 24 uses the language “means for controlling the extent fish attractant dispersing openings are open”.

With respect to the Examiner’s third group C of claims, again none of the claims use the exact language “fishing line a receiving passageway” nor do they use the exact phrase “having visual indicia”. Claim 4 does use the phrase “comprises indicia for visually indicating” and thus this requirement is also found in claims 5-9 which depend directly or indirectly from claim 4. Claim 10 has the requirement “wherein first visual indicia is carried by the first housing section...and wherein second visual indicia is carried by the second housing section...” and thus this requirement is found in claims 11-18 which depend directly or indirectly from claim 10. Claim 20 uses the language: “first and second indicia providing a visual indication of the extent of alignment...”. In addition, claim 24 uses the language “indicia means for visually indicating...”.

Thus, all of the claims fall in the Examiner’s Group A as Applicant interprets the meaning of the language used in the Examiner’s Group A.

Moreover, in addition to falling into Group A, claims 3-9 and 13-24 have language referring to a plurality of second open positions; or fish attractant dispensing openings, or varying the extent to which the fish attractant dispensing openings are open, or means for controlling the extent to which the fish attractant dispensing means are open although typically not in combination with one another.

Furthermore, in addition to falling into Group A, claims 4-18 make reference to visual indicia, claim 20 makes reference to indicia providing a visual indication and claim 24 provides indicia means for visual indicating.

Thus, given the above analysis, the claims commonly fall into multiple groupings with all of the claims falling into Group A as this grouping is understood and is explained above.

It is therefore requested that all of the claims be examined.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By



David P. Petersen

Registration No. 28,106

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 228-9446